

MEMORANDUM

TO: Lieutenant Governor's Office Staff

FROM: Justin Lee, Utah Director of Elections
Kirsten Rappleye, Chief of Staff to Lt. Governor Spencer J. Cox

DATE: May 14, 2019

SUBJECT: Elections Protocols

Under Utah Code the Lieutenant Governor serves as “the chief elections officer of the state” ([UCA 67-1a-2\(1\)\(c\)](#)) with “direct authority over the conduct of elections for federal, state, and multicounty officers” ([UCA 67-1a-2\(2\)\(a\)\(ii\)](#)). As the chief election officer it falls to the Lieutenant Governor to “render all interpretations and make all initial decisions about controversies or other matters arising under” Utah election law ([UCA 20A-1-402](#)). Under normal circumstances when a controversy or complaint arises surrounding an election the Lieutenant Governor consults directly with his staff regarding the issues, and the Attorney General assigned to the office if necessary, and makes a decision about the matter.

Our first priority in this office is to ensure that all elections are run freely and fairly, and to maintain public trust in the administration and outcome of each election. Because the Lieutenant Governor intends to run for the office of Governor in 2020 we want to avoid any actual or perceived bias should a complaint arise that involves the Cox campaign, or the gubernatorial race. To that end, if an election controversy arises that has any connection to the Cox campaign, the gubernatorial race, or Spencer Cox as a candidate, the Lieutenant Governor will not consult directly with his staff about the matter in the first instance, but the staff will defer questions to a neutral third party who will review the matter and make a recommendation to the Lieutenant Governor. As the Lieutenant Governor has statutory duties, he cannot abdicate his authority to make a decision, but he can defer to a neutral third party for an objective recommendation.

We are very pleased that former Lieutenant Governor Gayle McKeachnie has agreed to work with the election office in an advisory capacity as a resource who can review any election complaint or controversy outlined above. Gayle McKeachnie is well respected and brings years of wisdom and experience, including having served as Utah's chief election officer himself. Mr. McKeachnie is not being hired or paid by the office should we need his services, although he may be reimbursed for travel or other related expenses if necessary.

If the office receives a complaint regarding the Cox campaign, the gubernatorial race, or Spencer Cox as a candidate, the office's procedures will not be vastly different from how any complaint would be handled with the exception of adding Mr. McKeachnie into the process. Should the office receive this type of complaint the following procedures will be followed:

- Inform the Director of Elections (director) that the complaint was received.

- As with all complaints, the director will review the issue to determine if it is a simple matter on which the law is clear, or if the matter requires further review.
- If the matter requires further review, the director will inform our attorney and Mr. McKeachnie of the complaint.
- Our office will inform the campaign of the complaint, and give the campaign an opportunity to respond, exactly as we would with any complaint about any campaign.
- The director will review the complaint, any response, and other available information with our attorney.
- The director and our attorney will share the complaint, response, and all other applicable information with Mr. McKeachnie for his review.
- The director and our attorney will act as resources to Mr. McKeachnie as he reviews the issue and prepares his recommendation.
- Mr. McKeachnie will provide a written recommendation to the Lieutenant Governor as to how the issue should be handled. This recommendation will be public.
- Once the written recommendation is received the Lieutenant Governor may consult with Mr. McKeachnie, the director, our attorney, or other staff on the matter.
- Lieutenant Governor Cox will render a decision on the matter as per Utah Code §20A-1-402.

As stated previously, the first priority of our office is to ensure that all campaigns are treated fairly, and there is absolutely no bias in how we administer elections. The Cox campaign should not be treated differently, or given any privilege we would not extend to every other campaign. We believe that having these procedures in place will help build public confidence in the process, thus protecting both our office and, more importantly, the integrity of our elections.

Best,

Justin Lee, Utah Director of Elections

Kirsten Rappleye, Chief of Staff to Lt. Governor Spencer J. Cox